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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/602,922	06/23/2000	Guy O. Barges	0906S-000267	1038

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EXAMINER

MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/602,922

Applicant(s)

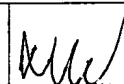
BARGNES ET AL.

Examiner

Susanna M. Diaz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,10,11,14-16 and 35-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,10,11,14-16 and 35-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In light of results from an updated search, the previous indication of allowable subject matter is withdrawn. A Non-Final Office action follows.

The Examiner will examine the claims presented in Applicant's response filed on February 23, 2004. In this amendment, Applicant amended claims 4, 10, 11, and 14-16, cancelled claims 1-3, 5-9, 12, 13, and 17-34, and added new claims 35-48.

Claims 4, 10, 11, 14-16, and 35-48 are presented for examination.

2. The previously pending objection to the declaration is withdrawn in response to Applicant's submission of a corrected declaration.

The previously pending rejection under 35 U.S.C. § 112, 2nd paragraph is withdrawn in response to Applicant's claim amendments.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 4, 10, 11, 14-16, and 35-48 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. Further, mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process. Merely transmitting data over a physical network or storing data in an electronic database does not sufficiently apply, involve, use, or advance the underlying process.

Therefore, while claims 4, 10, 11, 14-16, and 35-48 are deemed to recite a useful, concrete, and tangible result, claims 4, 10, 11, 14-16, and 35-48 are rejected as being non-statutory under 35 U.S.C. § 101 for failure to apply, involve, use, or advance the technological arts. In order to overcome this rejection, Examiner suggests that Applicant amend the claims to explicitly recite that at least one of the core steps of the invention (e.g., an analysis step) is performed by a computer processor or similar component.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 10, 11, 14-16, and 35-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stellix (both version 1.4 and its upgrade, version 2.1), as disclosed in the following articles:

“ADP Collision Repair Services Brings New Management Features to Body Shops with Release of Stellix 1.4” (herein referred to as Stellix 1.4); and

“ADP Collision Repair Services and Akzo Nobel Announce Release of Stellix 2.1” (herein referred to as Stellix 2.1)

in view of Marinucci (“Monitoring Flag Time Can Boost Profits”).

Regarding claims 4, 35, and 41-46, Stellix discloses a computer-implemented method for tracking a vehicle during a vehicle-related collision repair multi-step process, comprising the step of receiving a vehicle identifier in the analysis module such that the module can track the vehicle (Stellix 1.4: ¶¶ 3, 4; Stellix 2.1: ¶¶ 3, 7, 8 -- A repair order in a collision center is understood as referring to the repair associated with a particular vehicle; therefore, by identifying a certain repair order, one is inherently identifying the related vehicle being repaired). Furthermore, “Stellix provides collision repair facilities with extraordinary tracking capabilities to improve productivity and efficiency” (Stellix 2.1: ¶ 7). Stellix also comprises various reporting features (Stellix 2.1: ¶ 4); however,

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Stellix does not expressly teach what types of reports are offered beyond the explanation that they “provide detailed operation data for shop owners to evaluate” (Stellix 2.1: ¶ 4). In light of the fact that Stellix tracks repair orders throughout the collision repair facility and it includes a ShopView™ feature that “provides instant at-a-glance views of all repair orders, including the status and alerts in parts, labor, production and sublet work” (Stellix 2.1: ¶ 8), the Examiner asserts that Stellix’s reports contain information useful for taking operational data into account in order to identify potential for improvement in the areas of productivity and efficiency. Furthermore, the Examiner asserts that delays associated with obtaining parts, labor, production, and sublet work (mentioned by Stellix 2.1: ¶ 8) typically slow down the collision repair process, thereby having a negative effect on the overall productivity of a collision repair facility. Such delays often cost an insurer and/or vehicle owner money in the form of car rentals, missed days of work, etc. Consequently, this situation often promotes animosity between the insurer and/or vehicle owner and the collision repair facility, thereby reducing the likelihood that the collision repair facility will acquire/retain a good reputation.

Again, Stellix’s ShopView™ feature displays “instant at-a-glance views of all repair orders [i.e., vehicles], including the status and alerts in parts, labor, production and sublet work” (Stellix 2.1: ¶ 8). Since Stellix assists a collision repair facility in improving productivity and efficiency and its ShopView™ feature displays “alerts” to assist in the accomplishment of these goals, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to

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equate Stellix's alerts to the claimed "delays." For example, Stellix's "alerts in parts, labor, production and sublet work" imply a delay in either of these arenas (i.e., parts, labor, production, sublet work). Furthermore, in light of this understanding, each alert is interpreted as being associated with a given stage of repair (e.g., one associated with a delay in obtaining parts, scheduling labor, etc.) and the nature of the alert related to a given repair order inherently conveys a delay reason, a step at which the delay occurred, and the identification of the vehicle, as recited in claims 4, 35, and 41-46.

As per claims 47 and 48, inherent to actually providing an estimate for, scheduling of, and actually repairing a vehicle (as taught by Stellix) are the steps of examining the identified vehicle to locate areas on the identified vehicle in need of repair and performing the repair steps to complete the repair of the identified vehicle.

Regarding claims 35 and 39, Stellix does not explicitly teach the steps of receiving and storing an amount of delay time associated with a delay reason; however, as discussed above, Stellix assists a collision repair facility in improving productivity and efficiency. Furthermore, as explained above also, the Examiner asserts that delays associated with obtaining parts, labor, production, and sublet work (mentioned by Stellix 2.1: ¶ 8) typically slow down the collision repair process, thereby having a negative effect on the overall productivity of a collision repair facility. Such delays often cost an insurer and/or vehicle owner money in the form of car rentals, missed days of work, etc. Consequently, this situation often promotes animosity between the insurer and/or vehicle owner and the collision repair facility, thereby reducing the likelihood that the collision repair facility will acquire/retain a good reputation. Therefore, the Examiner

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asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Stellix to incorporate the steps of receiving and storing an amount of delay time associated with a delay reason in order to gain a better understanding of where productivity and efficiency can be improved, which ultimately leads to a better relationship among insurers, vehicle owners, and collision repair facilities. Please note that a delay implies that an actual vehicle processing time has or will likely surpass a vehicle processing time target.

Regarding claim 35, Stellix does not expressly teach the allocation of a target time period for each day of the repair process to define a preselected daily time target and identification of a delay during a particular repair step of the repair process if the time allocated to the identified vehicle on a particular day is less than the preselected daily time target for that particular day. However, Marinucci teaches the scheduling of various automotive repair jobs. He also discusses the analysis associated with a technician's efficiency to perform various types of jobs (§§ 9, 11, 13, 16, 17). Marinucci defines technician efficiency as "the labor time you charge for a job divided by the time actually spent fixing the vehicle" (§ 9). He then explains that the goal is for a technician to spend no more than the amount of labor time charged to the customer. If the technician spends more time than allotted, this indicates an inefficiency in the vehicle repair process, thereby costing the repair center money. Also, Marinucci points out the following:

Obviously, scheduling the maximum amount of work makes more money for techs and the tire store. Not scheduling too much work improves both employee relations and the store's overall image.

Overscheduling puts undue pressure on techs to try to get too much work out on time. Doing so wears out workers physically and mentally, generates discontent in the ranks, and can cause comebacks that drag down a store's image. (¶¶ 6-7)

By scheduling various automotive repair jobs and aiming to limit the time for repair to the amount of labor time paid for by a customer (¶¶ 1, 2, 4-9), Marinucci effectively teaches the allocation of a target time period for each day of the repair process to define a preselected daily time target. Marinucci also analyzes reasons for delay when a minimum technician efficiency (e.g., 100%) is not met or exceeded (¶¶ 4-19), thereby teaching the identification of a delay during a particular repair step of the repair process if the time allocated to the identified vehicle on a particular day is less than the preselected daily time target for that particular day. Both Stellix and Marinucci are directed toward the goal of improving automotive repair center efficiency through analysis of repair-related statistics; therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to enhance Stellix with the analysis techniques taught by Marinucci (e.g., allocation of a target time period for each day of the repair process to define a preselected daily time target and identification of a delay during a particular repair step of the repair process if the time allocated to the identified vehicle on a particular day is less than the preselected daily time target for that particular day) in order to allow Stellix to perform an even more comprehensive analysis of collision repair center efficiency, thereby lending more insight into improvements that could be made in the repair process, which

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ultimately leads to a better relationship among insurers, vehicle owners, and collision repair facilities.

As per claims 36-38, the Stellix-Marinucci combination does not expressly teach a specific amount of allocated time period for each day of the repair process. However, Official Notice is taken that it is old and well-known in the art of repair to assign any range of time necessary to complete the repair, including the same daily time target for each day, such as five hours for each day. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt the Stellix-Marinucci combination to assign any range of time necessary to complete the repair, including the same daily time target for each day, such as five hours for each day (as recited in claims 36-38), in order to accommodate those repair centers that require the same daily time target for each day, such as five hours for each day, to complete certain repairs.

As per claim 40, Stellix does not expressly teach a specific amount of delay time. However, Official Notice is taken that it is old and well-known in the art of repair that delay times can occur in any length of time, including as a one day delay. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Stellix to record any range of delay times involved in a repair, including a one day delay (as recited in claim 40), in order to accommodate those repair centers that need to record a one day delay time for a given repair.

In reference to claim 42, Stellix does not explicitly teach the use of codes to identify and store a delay reason and amount of delay time associated with the delay reason; however, Official Notice is taken that it is old and well-known in the art to use a uniform list of codes to refer to commonly performed procedures within a given industry. Such a practice promotes an established standard throughout an industry so that an apples-to-apples comparison may be more confidently made among items with the same code. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to implement with Stellix the use of codes to identify and store a delay reason and amount of delay time associated with the delay reason in order to promote an established standard throughout the collision repair industry so that apples-to-apples comparisons may be more confidently made among items with the same code, thereby facilitating the evaluation of various collision repair facilities.

Regarding claim 10, Stellix fails to expressly disclose that its repair orders are tracked through at least one of a disassembly step, frame step, metal step, preparation step, paint step, reassembly step, testing step, and detailing step; however, Official Notice is taken that it is old and well-known in the art that these steps are commonly performed as part of a typical collision repair process. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to explicitly integrate the tracking of a vehicle through at least one of a disassembly step, frame step, metal step, preparation step, paint step, reassembly

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step, testing step, and detailing step in order to provide for a more comprehensive overview of all of the likely steps in a typical collision repair process.

As per claim 11, Stellix does not explicitly disclose the identification of a vehicle through the identification of a vehicle brand, vehicle year, and customer identifying data. However, Official Notice is taken that it is old and well-known in the art to identify a vehicle being repaired at a repair collision center through the identification of a vehicle brand, vehicle year, and customer identifying data. Verification of this data helps to ensure that a person who has legitimate rights to a vehicle is picking up the right vehicle upon completion of the repairs. Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to adapt Stellix to identify a vehicle through the identification of a vehicle brand, vehicle year, and customer identifying data in order to help ensure that a person who has legitimate rights to a vehicle is picking up the right vehicle upon completion of the repairs.

As per claims 14-16, Stellix does not expressly teach the use of a network or a relational database; however, Official Notice is taken that it is old and well-known in the art to store data in a relational database (for more efficient access to multiple pieces of data associated with a given record(s)) and to transmit and process vehicle repair data over a network, such as a global communications network connected by common protocols (e.g., the Internet) (for more rapid and efficient communication and collaboration among various parties). Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention

to implement Stellix using a relational database and a network, such as a global communications network connected by common protocols (e.g., the Internet), as recited in claims 14-16, in order to promote more efficient access to multiple pieces of data associated with a given record(s) as well as more rapid and efficient communication and collaboration among various parties.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Tunbridge et al. (EP 0 404 541 A2) -- Discloses a method of cost assessing damaged vehicles.

Srinivasan et al. ("A Heuristic-Based CarShop Scheduling Application") -- Discloses an approach to car shop scheduling.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703)308-1113.

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Any response to this action should be mailed to:


**Commissioner for Patents
P.O. Box 1450
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(703)305-7687 [Official communications; including
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(703)746-7048 [Informal/Draft communications, labeled
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7th floor receptionist.


Susanna M. Diaz
Primary Examiner
Art Unit 3623
September 2, 2004